

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by S/Sri Rokkam Srinivasa Hari Prasad and Rokkam Ravi Prasad, sons of Late Rokkam Jagadeswara Rao, R/o China Kumari Street, Parvathipuram, Vizianagaram District, against the Proceedings (M) Rc.No.926/04 C5, dated:17.06.2010 of the Collector, Vizianagaram District - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993) – Appeal Petition allowed – Orders Issued.

SOCIAL WELFARE (CV2) DEPARTMENT

G.O.MS.NO. 69

Dated:05.08.2013.
Read the following.

1. Proceedings of the District Collector, Vizianagaram (M) Rc.No.926/04 C5, dated: 17.06.2010.
2. Appeal Petition filed S/Sri Rokkam Srinivasa Hari Prasad and Rokkam Ravi Prasad, sons of late R. Jagadeswara Rao, R/o China Kumari Street, Parvathipuram, Vizianagaram received through M(TW) on 12.7.2010.
3. Govt. Memo No.5145/CV.2/2010, SW(CV.2) Dept., dated 17.07.2010.
4. From the District Collector, Vizianagaram, (M) Rc.No.926/04 C5, dated :24.08.2010.
5. Govt. Memo No.5145/CV.2/2010, dated:29.09.2010 & reminders thereon.
6. From the District Collector, Vizianagaram, (M) Rc.No.926/04 C5, dated:23.05.2012.
7. Govt. Memo No.5145/CV.2/2010, SW(CV.2) Dept., dated: 25.06.2012
8. Govt. Memo No. 5145/CV.2/2010, SW(CV.2) Dept., dated: 26.07.2012
9. Written Arguments dated: 06.08.2012 filed by the counsel for the Appellant before the Government.

ORDER:

In the reference 1st read above the District Collector, Vizianagaram has issued orders canceling Scheduled Tribe Certificate obtained from the then Tahsildar, Kurupam by S/Sri Rokkam Srinivasa Hari Prasad and Rokkam Ravi Prasad, sons of Late R. Jagadeswara Rao, R/o China Kumari Street, Parvathipuram, Vizianagaram District.

2. In the reference 2nd read above, S/Sri Rokkam Srinivasa Hari Prasad and Rokkam Ravi Prasad, sons of Late R. Jagadeswara Rao, have filed Appeal Petition before the Government against the orders of the District Collector, Vizianagaram. After examining the said Appeal Petition Government have admitted the Appeal Petition and stay orders were issued on the proceedings of the District Collector, Vizianagaram and called for the parawise remarks and connected records from the District Collector, Vizianagaram in the reference 3rd and 5th read above.

3. In the reference 4th and 6th read above, the District Collector, Vizianagaram has furnished the parawise remarks and connected records of S/Sri Rokkam Srinivasa Hari Prasad and Rokkam Ravi Prasad, sons of Late Rokkam Jagadeswara Rao.

4. The said Appeal Petition has been posted for hearing on 09.07.2012 and finally on 06.08.2012 and the same has been informed to the appellants, counsel for the appellants with a request to attend the hearing of the case with all documentary evidences/ certificates in favour of their community claim in the

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references 7th and 8th read above. The Advocate for Appellants was present and argued the case and explained their client's community status and the Appellants filed written arguments before the Appellate Authority in the reference 9th read above, that the impugned order suffers from several legal and factual infirmities and the counsel for appellants prayed to set-a-side the orders of the District Collector, Vizianagaram on the following grounds.

- (i) The mother of the appellants got inter-caste marriage, in support of this, she filed the inter-caste marriage certificate which was issued by the E.O in RC.No.1193 dated 11-03-1993 is self explicit to the effect of the said inter-caste marriage.
- (ii) The Caste Certificate issued by the M.R.O., Kurupam in No.685/93 Dt.11-12-1993 confirming the community of the mother of the appellants; the affidavits of Manna Dora S.T. Community elders of MR Nagaram, Devukona Villages; the affidavits of the Village President of Mondemkallu Village and the Genealogy Chart of the Appellants forefathers for the last 200 years which was confirmed by Manne Dora Welfare Seva Samithi Society Regd.216/ 2001, proved that the appellants are as of off-springs of Manna Dora S.T. Community.
- (iii) Neither the District Collector, Vizianagaram nor the DLSC perused the documentary evidence in terms of G.O. Ms. No.371 dated: 13-04-1976; and not followed the procedure as laid down in Rules 8 & 9 of A.P.SC/ ST/ BC issue of Community, Nativity and Date of Birth Certificates rules 1997.
- (iv) It is also revealed from the report of the Additional S.P., CID which confirmed that the reports of the Inspector of Police, CID, R.D.O., Parvathipuram are false since the public enquiry said to have been conducted, was not conducted. The Village Sarpanch and Talayaar also confirmed the same facts.
- (v) That on, not being followed the surname of the mother, it was tested by the Judicial Courts and Revenue Department officials that the surnames ought not to be taken into criteria, because the similar surnames do exist in other communities (OCs / BCs).
- (vi) At the time of hearing of the Appeal Petition the learned counsel to the Appellant has stated that in G.O.Ms.No.131 Dt.01.12.2001 Government have considered the Appeal Petition of Sri M. Madhusudana Rao as off-spring of S.C. community (Madiga) even though his father belonged to Setti- Balija B.C. (B) group, taking into consideration of the Caste of the mother, by virtue of his mother caste, and in the light of Government orders made in Letter No.39/ 37/ 73 SCT Dt.04.03.1975 and the S.C. Judgment reported in 1959 and issued orders accordingly, therefore he has requested to consider the instant case also in the light of the above facts.
- (vii) In the case of G.O. Ms. No.371, dated 13-04-1976 the Division Bench of the Hon'ble High Court, in W.A. No.1188/96 Dt. 06.12.1996 in Sri W.S. Satyanarayana, Director, Tribal Welfare categorically observed whether the appellants, petitioner has been accepted by the Konda Kapu Community as member of its Tribe. If it is ultimately found that the appellant petitioner has been accepted as Konda Kapu Community, he shall be treated as belonging to Scheduled Tribe. In the present case of the appellants the community society accepted the appellants and their mother belong to as of their Manne Dora S.T. Community. Hence, they should be considered as 'Manne Dora' off-springs.

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- (viii) In G.O.Ms.No.15, SW(CV.2) Department, dated:02.05.2012 Government have issued orders while allowing the Appeal Petition filed by Sri G. Appa Rao S/o Late Markandeyulu and 3 others R/o Mondemkallu(V), Kurupam (M), Vizianagaram, **Smt.Gedela Hemaltha W/o Late R.Jagadeswar Rao**, Smt. G. Sobha Rani W/o Parmeswara Rao, and Sri Gedela Girish, S/o Gedela Narayana Rao, R/o Mondemkallu(V), Kurupam (M), Vizianagaram District and the Proceedings of the District Collector, Vizianagaram issued in (M) Rc. No. 845/98. C7, dated:04.12.2000 are set aside by upholding the ST 'Manne Dora' community certificate SRNo.35/97/E, dated 21.03.1998 and other ST Certificates SR No. 35/98/E, dated 11.03.1998 and SR No. 476/96 B dated 06.07.1996 issued by the Tahsildar, Kurupam infavour of Sri G. Appa Rao S/o Late Markandeyulu and 6 others R/o Mondemkallu(V), Kurupam (M), Vizianagaram District.

5. Government have examined the records and Proceedings of the District Collector, Vizianagaram dated. 17.06.2010, grounds and written arguments submitted by the Appellants and having considered the arguments of either side and documentary evidences and written arguments of the Counsel for the Appellants in which they have contented that the enquiry was not conducted as contemplated under Rule 14 of the Rules, 1977 and also the DLSC has not considered the Documents related to the death of their maternal grand father i.e., G. Markandeyulu and the voters list which also reveals categorically that the wife of Markandeyulu ie., Smt. Seetha Lakshmi belongs to 'Manne Dora' (ST) Community. Further, the Appellants in their written arguments have stated that District Collector has passed the orders based on the report of the DLSC, which did not consider the valid documents submitted in support of their claim. The Appellants have also stated that they belong to Manne Dora by caste, as per the Rules prescribed by the Government to the off springs of Inter-caste Marriage of parents, in G.O.Ms.No. 371, Employment and Social Welfare (B2) Department, dated:13.04.1976, and that during the course of enquiry, their mother i.e., Hemalatha D/o Markandeyulu and the Community elders have filed bunch of records relating to their caste.

6. Further it is observed that on perusal of the written arguments of the Appellants and on perusal of relevant records, material papers, copies of various documents viz., Court Judgments i.e., Genealogical Chart endorsed, contention of the Appellants and the impugned order of the District Collector, Vizianagaram in Proceedings No. (M) Rc.No.926/04 C5, dated 17.6.2010 the 'Manne Dora Caste Welfare Seva Samithi Society', Affidavits of elders of the Caste, Voter's list and other supporting material related to the case, it appears that the DLSC and Collector, Vizianagaram District have not viewed the issue from all possible angles and the supporting documents produced by the Appellants, claiming that they are off springs of Manne Dora ST Community. In G. O. Ms. No. 371, Employment and Social Welfare(B2) Department, dated 13.04.1976 in Annexure-II at para 4, it has been stated that "in the case of marriage between a tribal with a non-tribal, the main factor or consideration is whether the couple were accepted by the tribal society to which the tribal spouse belongs. If he or she, as the case may be, is accepted by the society then their children shall be deemed to be Scheduled Tribes. But this situation can normally happen when the husband is a member of the Scheduled Tribe. However, a circumstances may be there when a Scheduled Tribe woman may have children from marriage with a non- Scheduled Tribe man. In that event the children may be treated as Scheduled Tribes only if the members of the Scheduled Tribe community accept them and treat them as members of their own community" and as per the circular Memo No.10956/CV1/1997-2, dated:16.02.1998 and various Court Judgments related to different States

observed in reckoning the Caste of an individual born through Inter-caste Marriage in between a higher caste man and a lower caste woman, under the Article 342 of the Constitution of India. The Appellate Authority is of the opinion that the Appellants are off springs of Manne Dora ST community, as the Appellant's father and mother were not accepted by the Telaga Community, and the Manne Dora Kula Panchayat after observing the tradition of "Tappu Pattadam" i.e. forgiving and acceptance processed by supply of liquor and non-veg food, according to the practice of Manne Dora Community has accepted her as Manne Dora S.T. Community and accepted the appellants as of off-springs of Manne Dora S.T. Community.

7. Government after careful examination of the Appeal Petition and the facts stated supra and in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), and the Rules issued in G.O. Ms. No.58, Social Welfare (J2) Department dated:12.05.1997 and in the light of the Orders issued in G.O. Ms. No.371, dated:13.04.1976 of Employment and Social Welfare (B2) Department hereby allow the Appeal Petition filed by S/Sri Rokkam Srinivasa Hari Prasad and Rokkam Ravi Prasad, sons of late Rokkam Jagadeswara Rao, R/o China Kumari Street, Parvathipuram, Vizianagaram District and the Proceedings of the District Collector, Vizianagaram issued in the (M) Rc.No. 926 / 04 C5, dated: 17.06.2010 is hereby set aside, by upholding the ST 'Manne Dora' Community Certificates issued by the Tahsildar, Kurupam vide SR No. 203/98 dated 11-05-1998 and SR No. 231/98 dated 19-05-1998 in favour of S/Sri Rokkam Srinivasa Hari Prasad and Rokkam Ravi Prasad, sons of late Rokkam Jagadeswara Rao, R/o China Kumari Street, Parvathipuram, Vizianagaram District.

8. The District Collector, Vizianagaram shall take necessary action in the matter.

9. The records (containing (M) Rc.No.926/04 C5, dated:17.06.2010 (5-Volumes), pages 01 to 3104 CF) received from District Collector, Vizianagaram District, through 4th and 6th read above, are returned herewith in original to District Collector and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr.A.VIDYASAGAR
PRINCIPAL SECRETARY TO GOVERNMENT(TW)

To

The District Collector, Vizianagaram (we) (By RPAD)
(with original records).

S/Sri Rokkam Srinivasa Hari Prasad
and Rokkam Ravi Prasad,
sons of late Rokkam Jagadeswara Rao,
R/o China Kumari Street, Parvathipuram,
Vizianagaram District.

Sri T.Raja Sekhar Rao, Advocate,
Plot No. 92/1 and 93, Durga Vihar Colony,
Gunrock Avenue, Trimulgherry,
Secunderabad-015.

Copy to:

The Commissioner of Tribal Welfare, AP, Hyderabad/
the Director, TCR & TI, AP, Hyderabad.

The Director General of Police, A.P., Hyderabad.

The Deputy Inspector General of Police, VSP Range,
Visakhapatnam.

The Tahsildar, Kurupam, Vizianagaram District.

P.S. to Minister (TW)

P.S. to Principal Secretary (TW)

SF/SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER